



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

Ref: 8ENF-W-NP

MAR 29 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Travis Easton
Director of Public Works
City of Colorado Springs
30 S. Nevada, Suite 502
Colorado Springs, Colorado 80903

Travis Easton
Director of Public Works
City of Colorado Springs, CO
30 South Nevada, Suite 502
Colorado Springs, CO 80903
CERT # 7009 3410 0000 2600 4888

Re: Follow-up Request for Information Issued Pursuant to Section 308
of the Clean Water Act, 33 U.S.C. § 1318

Dear Mr. Easton:

The Environmental Protection Agency has completed its review of your letter and attachments (including a certification dated December 16, 2015), prepared in response to our request for information from the City of Colorado Springs (City) dated November 2, 2015 (November 2015 Request). Our November 2015 Request was made pursuant to section 308 of the Clean Water Act (Act), 33 U.S.C. § 1318, as part of our ongoing evaluation of the City's compliance with the permit issued to the City by the State of Colorado (Permit No. COS-000004) (Permit) authorizing the City to discharge stormwater from the City's municipal separate storm sewer system (MS4) in compliance with the Permit.

The EPA has determined that the City's response is not complete. In addition, the EPA seeks clarity on certain responses. This follow-up request, therefore, is a continuation of our November 2015 Request, and also is made pursuant to section 308 of the Act. Attachment A hereto details the information the EPA seeks in response to the November 2015 Request. Attachment A is incorporated into this follow-up request by this reference. Also attached is a map provided by the City in February 2013 and referenced in Request 9 of Attachment A.

Transmittal of this follow-up letter does not relieve the City of its responsibility to have provided a complete and full response to the 2015 Request for Information. Failure to provide requested information is a violation of the Act and may result in one or more of the following actions: 1) issuance of an administrative penalty order pursuant to section 309 of the Act, 33 U.S.C. § 1319; 2) issuance of an order requiring compliance with this request pursuant to section 309 of the Act, 33 U.S.C. § 1319; 3) the initiation of a civil action pursuant to section 309 of the Act, 33 U.S.C. § 1319; and/or 4) any other action authorized under the Act. In addition, knowingly providing false information in response to this information request may be actionable under section 309 of the Act, 33 U.S.C. § 1319.

The City's response to the entirety of this follow-up 308 request is due within twenty one (21) calendar days of receipt of this letter. Please refer to the November 2015 Request for applicable instructions, certification requirements, and business confidentiality claim and substantiation requirements. Please

send the requested information to:

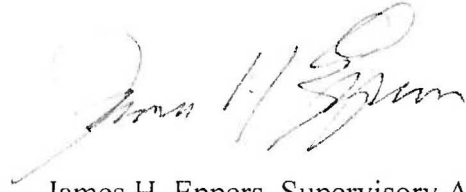
U.S. EPA Region 8 (ENF-W-NP)
NPDES Enforcement Unit
1595 Wynkoop Street
Denver, Colorado 80202-1129
Attn: Mike Boeglin

If you have technical questions regarding this request, please contact Mike Boeglin, NPDES Enforcement Specialist, at (303) 312-6250. Legal questions should be directed to Chuck Figur, Senior Enforcement Attorney, at (303) 312-6915.

Sincerely,



Gwenette C. Campbell, Supervisor
Water Technical Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice



James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice

Enclosures

cc: Nathan Moore, Unit Manager
Colorado Department of Public Health and Environment

Attachment A
to the
February 2016 EPA Follow-Up Letter
regarding
EPA's November 2015 Request for Information
to the City of Colorado Springs

NOTE: Request numbers below refer to the requests as numbered in the EPA's November 2015 Request.

Request 1, Follow-up Question A: Questions 1.a.i, 1.b.i, 1.c.i, 1.d.i, 1.e.i and 1.f.i, requested complete copies of each program incorporated by reference into the Permit (*see*, Permit section I.B.1) as each such program existed on the effective date of the Permit (November 1, 2011). The City did not provide complete copies of any such program. The EPA renews its request for complete copies of each such program. In an effort to further clarify this request, the EPA provides the following list of potential sources of documents comprising each program, and references to specific sections of the Permit. This list is not intended to be comprehensive. Portions of each of the programs may be contained in documents not described below. All documents comprising each program as it was approved and incorporated into the Permit as of November 1, 2011, must be provided.

I.B.1.a - CDPHE-approved Commercial/Residential Management Program

- I.B.1.a(1) - Document(s) containing the program of routine maintenance activities for municipally-owned structural controls, including procedures for material removal from facilities listed in I.B.1.a(1)(a)-(c).
- I.B.1.a(2) - Document(s) containing the program to address stormwater runoff from new development and redevelopment (NDRD), including:
 - I.B.1.a(2)(a) – document(s) containing the strategies described in this subsection of the permit, and document(s) containing the minimum technical requirements for required structural best management practices (BMPs) (at a minimum, provide the version date for the then current and approved Drainage Criteria Manual Volume II (DCM Vol II), and the specific section and page numbers of that version of the DCM Vol II setting forth the minimum technical requirements for structural BMPs);
 - I.B.1.a(2)(b) - ordinance(s), or other regulatory mechanisms, used to address post-construction requirements;
 - I.B.1.a(2)(c) - document(s) containing procedures to determine if the BMPs are designed and installed in accordance with program requirements;
 - I.B.1.a(2)(d) - document(s) containing procedures to ensure adequate long-term operation and maintenance;
 - I.B.1.a(2)(e) - document(s) containing the program for enforcement of the NDRD program; and
 - I.B.1.a(2)(f) - document(s) containing procedures and mechanisms to track the location of BMPs and to document whether the BMPs are constructed and operating properly.
- I.B.1.a(3) - Document(s) containing procedures to assess impacts of flood management projects.

I.B.1.b - CDPHE-approved Illicit Discharges Management Program

NOTE: EPA acknowledges that as part of its response the City submitted a Program description dated October 2012. The City, however, did not identify which parts of this 2012 program description were responsive to each subsection of questions I.b.i - v.

- I.B.1.b(1) Document(s) containing the program to prevent illicit discharges, including:
 - I.B.1.b(1) - the city code(s) used to implement these requirements; and
 - I.B.1.b(1)(c) - document(s) containing the list of occasional and/or incidental sources of non-stormwater discharges that are excluded from the definition of "illicit discharge", or a statement that the City has not created such a list and the discharges are limited to those identified in Part I.B.1.b(1)(b).
- I.B.1.b(2) - Document(s) containing procedures to detect and eliminate illicit discharges, including:
 - I.B.1.b(2)(b) - document(s) containing the plan to detect and address illicit discharges, including response procedures, procedures for tracing the source of each illicit discharge, procedures for elimination of the source(s) of each discharge, mitigation procedures, and tracking;
 - I.B.1.b(2)(c) - document(s) containing procedures to train staff; and
 - I.B.1.b(2)(d) - identify how, where, and in what form records of all reported illicit discharges and the permittee's response are maintained.
- I.B.1.b(3) - Document(s) containing the procedures to prevent, contain and respond to spills.
- I.B.1.b(4) - Document(s) containing the plan to promote and facilitate public reporting of illicit discharges.
- I.B.1.b(5) - Document(s) containing the plan to provide public education to reduce or eliminate the discharge of pollutants to the MS4.
- I.B.1.b(7) - Document(s) containing the program to detect and eliminate sources of sanitary sewer seepage into the MS4.

I.B.1.c - Industrial Facilities Program

- All document(s) containing the Industrial Facilities Program.

I.B.1.d - Construction Sites Program

NOTE: The completed complaint form was not attached to, or otherwise made a part of submitted document *Correspondence from WQCD(6).pdf*. Please provide a copy of the related complaint.

- I.B.1.d(1) - Document(s) containing procedures for site planning, including:
 - I.B.1.d(1)(a) - ordinance(s), or other regulatory mechanisms, used to address construction site requirements; and
 - I.B.1.d(1)(c) - document(s) containing project review and approval procedures.

- I.B.1.d(2) - Document(s) containing procedures and requirements for selection, implementation, installation, and maintenance of appropriate BMPs, including:
 - I.B.1.d(2)(a) - document(s) containing minimum BMP requirements for construction sites and criteria for selection; and
 - I.B.1.d(2)(b) - document(s) containing the minimum technical requirements for all required BMPs (at a minimum, provide the version date for the then current and approved DCM Vol II, and the specific section and page numbers of that version of the DCM Vol II setting forth the minimum technical requirements for all required BMPs);
- I.B.1.d(3) - Document(s) containing procedures and requirements for site inspection and enforcement, including:
 - I.B.1.d(3)(a) - document(s) containing procedures to ensure that BMPs are being installed and maintained (i.e., procedures for site inspection/assessment);
 - I.B.1.d(3)(b) - document(s) containing plans for training the staff responsible for inspections and enforcement; and
 - I.B.1.d(3)(c) document(s) containing enforcement provisions, including specific processes and sanctions.
- I.B.1.d(4) - Document(s) containing the education and training program for permittee staff and construction contractors.

I.B.1.e - Pollution Prevention/Good Housekeeping for Municipal Operations

NOTE: The City's response to questions 1.e, particularly regarding updates and approvals, appears to rely on certain Annual Reports. These Annual Reports, however, do not contain the relevant information, but, with regard to these items appear to state "[c]ompleted available upon request" for at least several program elements.

- I.B.1.e(1) - Document(s) containing the list of facilities the City owns or operates that are subject to separate permit coverage.
- I.B.1.e(3) - Document(s) containing written operation and maintenance procedures for operations not already addressed by Municipal Facility Runoff Control Plans.

I.D. – Monitoring Program

- I.B.1.e(3) – All document(s) containing the Monitoring Plan.

Request 1, Follow-up Question B: In the City's responses to questions 1.a through 1.g, the City states that it informs the CDPHE of all existing and upcoming changes to its stormwater program in each annual report, and that "Colorado Springs, CDPHE, and EPA, to the City's knowledge, treat lack of response from CDPHE as approval of each stormwater program change reported." EPA does not treat a lack of response from CDPHE as approval. Further, this does not comport with the clear language of the Permit, in particular, Part I.C.3.a ("[t]he approved Programs shall not be modified by the permittee without the prior approval of [CDPHE]"), and Part I.C.3.b ("[m]odifications shall not become enforceable permit conditions until such time as the modifications are formally approved"). Please provide a list (not references to other documents) of each change to each program listed in Part I.B.1 of the Permit made by the City after November 1, 2011, that has not received formal approval from the

City (i.e., affirmative approval in writing), and provide: (a) the relevant language from the prior, formally approved, version of each program purportedly modified in the informal manner described above, and (b) the language reflecting the purported modification.

Request 2: No follow-up required.

Request 3-7: The EPA asked the City to provide “all records supporting or otherwise related to the issuance of [certain] waivers” and “records such as letters of request for the waivers, electronic or other communications (internal and external) about the waivers, and responses to requests for waivers, either formal or informal.” In response, the City briefly described, but did not provide, such records. Whether the City’s decisions to not require post-development BMPs constitute “waivers” or not, all documents relating to these decisions, including those memorializing the City’s decisions to approve the plans referred to in Questions 3-7 are responsive to the November 2015 Request. Please submit all such documents in their entirety, including but not limited to requests, proposals, signed plans and reports, draft and final City-approved plans, calculations related to development density or other analysis, letters, amendments to development plans and drainage reports, email messages, etc. relating to the City’s decisions on the sites referenced in these questions.

Request 6: The EPA asked the City to “[e]xplain, including citation(s) to authority, the basis for issuance of waivers” for several sites, identified at e) through i), where waivers were approved by the City after the updated DCM Volume II became effective. The Colorado Springs City Council approved Resolution No. 49-14 (May 27, 2014) adopting the updated versions of the DCM Volumes I and II and stated that they “shall become effective for use in all planning, design, construction and maintenance of new development and redevelopment activities . . . beginning with any applicable reports, studies, and plans submitted to the City for review and approval thirty (30) days after the date of this Resolution.” For each site listed in e) through i) of Request 6 provide a full copy of the drainage report approved by the City on the date indicated in each sub-part, and explain the basis for issuance of these waivers, including citations to authority. Please also provide all information related to these decisions by the City.

Request 8: The City states in its response that the table produced by the City as part of its April 15, 2015 response to the findings from the 2013 inspection, submitted to EPA by letter dated April 15, 2015 (April 2015 Submittal), had errors regarding which permanent BMPs serve (a) Flying Horse No. 8 Filing No. 2 and (b) Trails at Forest Meadows Filing No. 2.

- For (a), please provide corrected information regarding which permanent BMP(s) were approved. Please identify and describe the permanent BMPs that were in fact used for Flying Horse No. 8 Filing No. 2, and the basis for the City’s approval of such permanent BMPs.
- For both (a) and (b), please provide, in their entirety, all records relating to the City’s approval or allowance for permanent BMPs at these sites.
- Please provide an updated and corrected version of the table submitted by the City as part of its April 2015 Submittal, and highlight all entries that have been corrected and/or updated, including but not limited to entries corresponding to the City’s response to Questions 8(a) and (b).

Request 9: The City provided several tables showing a variety of in-stream structural controls, including drop structures, bank stabilization, rip rap, stream restoration BMPs, culverts, storm drain outfalls, and in-stream basins. It appears, however, that the only in-stream basins and ponds identified by the City are contained in the Natural Resource Conservation Service (NRCS) project list, which structures were constructed in response to fire, flood, or other emergencies. No other in-stream basins constructed as stormwater structural controls, for example, those associated with new or redevelopment construction projects, were listed in the response. Therefore, we request again that the City provide the

following:

- a list of all existing and planned in-stream ponds and basins, including, but not limited to extended detention basins, sand filter extended detention basins, constructed wetland basins, and retention ponds planned or constructed by the City, or by private developers that were approved by the City, as a permanent water quality and/or water quantity BMP for the purpose of controlling stormwater. Include on this list the location (latitude and longitude) and whether the structure is maintained by the City or by a private party. If maintained by a private party, please indicate the name of each such party; and
- a description of each City-owned in-stream pond and basin depicted on the map provided to the EPA during the February 2013 MS4 inspection (a copy of the map is enclosed with this follow up request). The description for each shall include the following information: what type of conveyance the structural control is in (stream, channel, ditch, etc.); the date of last inspection; results of and follow-up resulting from the last inspection; and the entity performing the inspection.

Request 10:

- The City's response does not clearly state when Sediment Basin ID44 was constructed. If the City does not know when construction was completed and final approval was given by the City, please affirmatively state this.
- Part (d) requested a detailed explanation of how the City quantifies the amount of pollutants reaching Sediment Basin ID 44. The Debris Disposal SOP referenced by the City in answer to this question does not include procedures for estimating the quantity of sediment and other pollutants expected to reach this basin. Please provide these procedures.
- If the City has no procedure to estimate the volume of pollutants to be removed (and on what schedule, given the apparent conflict between the Pond Maintenance SOP and the Debris Disposal SOP), please clearly state this.
- Part (f) requested, among other things, the disposition location(s) of any pollutants (e.g. accumulated sediment, metals, hydrocarbons, etc.) removed from Sediment Basin ID 44. The City's response acknowledged that pollutants had been removed but did not provide the disposition location. Please provide this missing information. Please confirm that your response is accurate and that the only years pollutant removal has been conducted were 2013 and 2014.
- Please confirm whether the Procedure of Operations section of the submitted Debris Disposal SOP was intentionally left blank and why. If it was inadvertently left blank, please provide the missing information.
- Please affirmatively state whether any other local, state or federal permits have been obtained relating to Sediment Basin ID44, and identify those permits.
- Question 10(g) requested a description of how utilization of the Sediment Basin meets the requirements of the City's Permit and the Drainage Criteria Manual, including citations(s) to authority. In response, the City simply copied its MS4 permits and the DCM and included them as attachments. Please answer part (g).

Request 11: Please provide full copies of the documents excerpted in response to this question. Please also provide a copy of the approved drainage report for this site, and any other documents, in their entirety, that address water quality control measures related to Dublin North Filing No. 6.

Request 12: In response to this question, the City provided a memo from Ryan Phipps dated December 2, 2015, describing Additional Maintenance Activities Not Entered in Cartegraph Work Director. This memo goes on to describe two “significant storm water related projects in 2013” related to North and South Douglas Creeks and Camp Creek. Please explain how the sediment that was taken from these two projects was tested and managed, and where it was disposed.

Request 13: The City’s export from the OM_Geodatabase relies on a large number of codes and abbreviations to describe the features depicted in the geographic information system layers; however, the City did not include a key to understand these codes and abbreviations in the data. Please provide the key to the meaning of these codes and abbreviations.

Request 14: The City did not include USACE NWP 3 in its response. Please provide this record.

Request 15: The City did not include MS4 staffing numbers for each year. Please provide this information.

CERTIFICATION STATEMENT

I certify under penalty of law, that I have personally examined and am familiar with the information submitted in this document and all attachments, and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information.

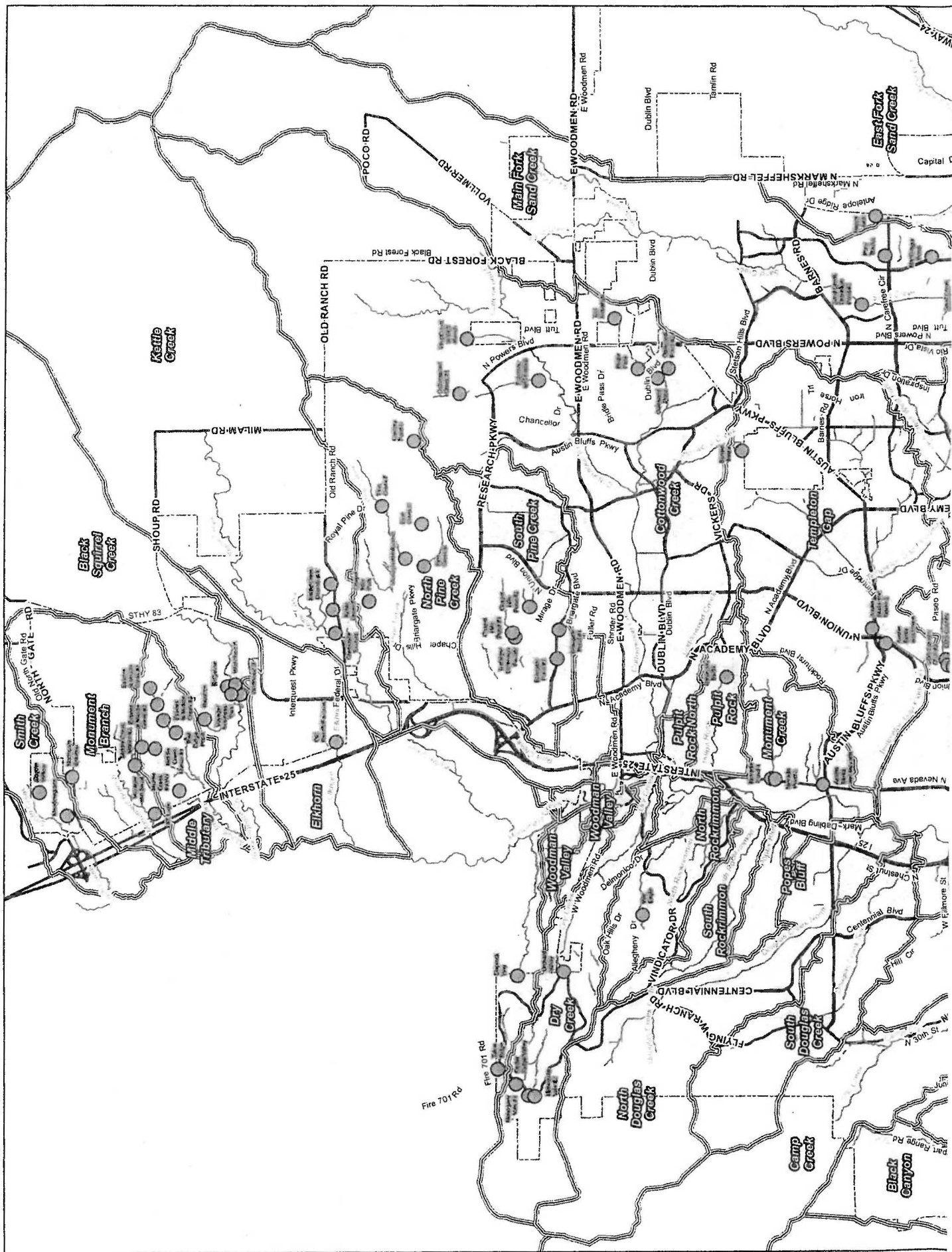
Signature

Date

Name

Title







Copyright 2001 by the City of Fort Collins, Colorado. All rights reserved. This map is for informational purposes only and does not constitute a warranty or representation of any kind. The City of Fort Collins is not responsible for any errors or omissions in this map. The City of Fort Collins is not responsible for any damages or losses resulting from the use of this map. The City of Fort Collins is not responsible for any claims or liabilities arising from the use of this map. The City of Fort Collins is not responsible for any claims or liabilities arising from the use of this map.